


MEMORANDUM

October 13, 2009

TO: Councilmembers

FROM: Councilmember Mike Knap 

RE: Ad Hoc Water Quality Working Group

The Clarksburg Master Plan was approved in June 1994. The Plan established a 4-stage development process requiring that certain criteria be met before development could proceed to the next stage. The final triggers enabling development to advance to Stage 4 have been met. However, concerns have been raised regarding water quality in the area.

The Master Plan requires the County Council to evaluate the results of Best Management Practices (BMPs) in the area. On January 26, 2009, the County Executive released the 2007 Special Protection Area Annual Report issued by the Interagency Workgroup on Clarksburg Stage 4. The report's information on the Clarksburg area was based on 2007 data. However, this data was collected before much of the stormwater management infrastructure planned for Clarksburg had been completed. As a result, the true stormwater impact on streams is not complete.

The Master Plan offers four options for the Council to consider after this evaluation: grant water and sewer category changes without limits on property owners; grant water and sewer category changes with certain conditions to protect Ten Mile Creek; consider other land use actions, or defer action on a Water and Sewer Plan category change pending further consideration.

Based on the options mentioned above, I am recommending that we consider the option – "Defer action on a Water and Sewer Plan category change, pending further study or consideration as deemed necessary and appropriate by the Council" found on Page 199, of the Approved Clarksburg Master Plan & Hyattstown Special Study Area.

On September 23, 2009, a group of Clarksburg interested parties met to discuss this issue and agreed on the following list of objectives based on the concerns over Stage 4.

Improving Environmental Protections for Future Development in Clarksburg

- 1) Future Clarksburg development needs better environmental protections that are more up to date technologically than those implemented for Stages 1 & 2.
- 2) Recommendations to address Stage 4 issues in Clarksburg should avoid adverse impacts on the proposed Town Center, Corridor Cities Transitway, and currently approved plans for eventual build-out.
- 3) Future Clarksburg development needs current best practices' science and technology, good design, and the assurance of absolute compliance and serious enforcement of regulations.
- 4) The discussion process to address Clarksburg issues must be transparent and open to the community and stakeholders.
- 5) Clarksburg development needs clear rules and standards that enable accurate measurements to implement and monitor the desired environmental controls.

Because there are many new and pending initiatives that will impact the construction industry, they should be reviewed as to their effect on water quality before the Council makes a decision on reopening the Master Plan. The Maryland Department of the Environment is in the process of updating the Revisions to Erosion and Sediment Control Standards and expects to complete this by December 31, 2009. The recent changes to National Pollution Discharge Elimination System MS4 Permit Requirements for Construction Activity, effective July 13, 2009 will also have a positive impact. In addition, on the federal level, the Environmental Protection Agency's Creation of Effluent Limit Guidelines and the Development of the Chesapeake Bay Total Maximum Daily Load are being developed.

These new and pending changes to the overall stormwater management requirements should be studied and reviewed as to their potential to improve development standards for water quality in Clarksburg.

In order to review all the initiatives, I am convening an Ad Hoc Water Quality Working Group and requesting them to spend several months studying the data from the Interagency Workgroup on Clarksburg Stage 4 and all of the newly passed and pending legislation and regulations regarding stormwater and its affect on water quality and issue a report of their findings by February 1, 2010. I request that the Council review this report so it would have better information to determine how best to proceed with actions in Clarksburg. If anyone is interested in cosponsoring this resolution, please let me know. I look forward to working with you to address these very important issues.

Resolution No.: \_\_\_\_\_  
Introduced:      October 6, 2009  
Adopted:         \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Councilmembers Mike Knapp, Nancy Floreen, and George Leventhal

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**SUBJECT:   Ad Hoc Water Quality Working Group**

**Background**

1.     The Clarksburg Master Plan, approved by the County Council in 1994, established four stages of development. The Plan mandated that certain criteria must be met before development could proceed to the next stage. Currently, all of the triggers required to advance Stage 4 have been met. One final requirement is a County Council evaluation of the water quality results of Best Management Practices (BMPs) in the area.
2.     On January 26, 2009, the County Executive released the 2007 Special Protection Area Annual Report. The Report's information on Clarksburg was based on 2007 data. This data was collected before much of the stormwater management infrastructure planned for Clarksburg had been completed. Therefore, the true stormwater impact of potential development is not complete.
3.     The Master Plan offers four options for the Council to consider as the final step after its evaluation: grant water and sewer category changes without limits on property owners; grant water and sewer category changes with certain conditions to protect Ten Mile Creek; consider other land use actions, or defer action on a Water and Sewer Plan category change pending further consideration.
4.     While impervious surface levels are an important aspect of water quality protection, there are new technologies and many new and pending legislation and regulations to improve stormwater management. For instance, the regulations resulting from the Maryland Storm Water Act of 2007 will apply to all new development that doesn't have the final grading and stormwater construction plans approved before May 2010. Projects without their final approval might be redesigned to meet the new standards which could result in significant loss of units. The County's Department of Environmental Protection is completing its draft of the Storm Water Management Law, Chapter 9, as required by the State which will base the new requirements on "environmentally sensitive design". One new aspect of the law will reduce runoff by requiring many smaller basins causing the water to infiltrate into the soil rather than become concentrated in large ponds.

5. There are many other initiatives that will impact the construction industry that should be reviewed as to their effect on water quality. MDE is in the process of updating the Revisions to Erosion and Sediment Control Standards and expects to complete this by December 31, 2009. The recent changes to National Pollution Discharge Elimination System Permit Requirements for Construction Activity, effective July 13, 2009 will also have a positive impact. In addition; at the federal level the Environmental Protection Agency's Creation of Effluent Limit Guidelines and the Development of the Chesapeake Bay Total Maximum Daily Load are being developed.
6. These new and pending changes to the overall stormwater management requirements should be studied and reviewed as to their potential to improve development standards for water quality in Clarksburg.
7. Councilmember Knapp will create an Ad Hoc Water Quality Working Group of experts in this field to study the findings of the 2007 Special Protection Area Annual Report related to Clarksburg; collect information on all new and pending State and Federal regulations regarding water quality, stormwater management, and sediment control; analyze how these new requirements will impact future development in Clarksburg, especially in Stage 4; and develop recommendations to improve development procedures to ensure minimal impact on water quality.

### Action

The County Council for Montgomery County, Maryland approves the following resolution:

Councilmember Knapp has directed the Ad Hoc Water Quality Working Group to issue its report and recommendations by February 1, 2010.

The County Council intends to promptly review the report of the Ad Hoc Water Quality Working Group.

The County Council intends to defer any Water and Sewer Plan category change related to Stage 4 in Clarksburg until after it has reviewed the Working Group's report.

This is a correct copy of Council action.

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Linda M. Lauer, Clerk of the Council